

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6760

BILL NUMBER: HB 1160

NOTE PREPARED: Jan 3, 2005

BILL AMENDED:

SUBJECT: Homeland Security.

FIRST AUTHOR: Rep. Ruppel

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill permits representatives of the U.S. Department of Homeland Security to serve as nonvoting members of the Counterterrorism and Security Council (CTASC). The bill specifies that a disaster includes an act of terrorism. It provides that the civil immunity granted to a paramedic or emergency medical technician for treatment of victims in connection with an act of terrorism does not apply if the paramedic or emergency medical technician acted wantonly. The bill specifies that a person who knowingly or intentionally possesses or uses a weapon of mass destruction with the intent to injure crops or livestock commits agricultural terrorism.

Effective Date: July 1, 2005.

Explanation of State Expenditures: Including an act of terrorism in the definition of disaster will not have a fiscal impact.

The bill also provides that a representative of the U.S. Department of Homeland Security may serve as a nonvoting member of CTASC. P.L. 123-2002 established CTASC. Since its inception, the council has met monthly. Although IC 4-3-20-7 provides that expenses of the council must be paid from appropriations made by the General Assembly or grants or gifts, to date no appropriations have been made. Expenses for the council have been paid from the budget of the State Department of Health. Adding an additional member could increase administrative expenses by a minimal amount.

Each member of the council who is not a member of the General Assembly is not entitled to per diem, but is entitled to reimbursement for travel expenses and other expenses incurred in connection with the member's

duties. Each member who is a member of the General Assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the Legislative Council. Per diem, mileage, and travel allowances paid under this subsection must be paid from appropriations made to the Legislative Council or the Legislative Services Agency.

Background. Currently, no representative of the Department of Homeland Security serves on CTASC. However, the Executive Director of CTASC conducts a biweekly conference call with a representative.

The council consists of the Lieutenant Governor, the State Police Superintendent, the Adjutant General, the State Emergency Management Agency director, the State Fire Marshal, the State Health Commissioner, the Commissioner of the Department of Environmental Management, the Assistant Commissioner of Agriculture, the Chair of the Indiana Utility Regulatory Commission, the Commissioner of the Indiana Department of Transportation, the Executive Director of the Indiana Criminal Justice Institute, a local law enforcement officer or a member of the Law Enforcement Training Academy, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Chief Justice of the Supreme Court. The Speaker, the President, and the Chief Justice are nonvoting members.

Penalty Provision. Under existing law, a person who knowingly or intentionally possesses; manufactures; places; disseminates; or detonates a weapon of mass destruction with the intent to damage, destroy, sicken, or kill crops or livestock of another person without the consent of the other person commits agricultural terrorism, a Class C felony. The proposal adds that a person who intends to injure crops or livestock also commits a Class C felony. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$59,574, with the costs ranging from a low of \$52,420 to a high of \$77,674. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Penalty Provision.* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Civil Immunity.* The bill provides that the civil immunity granted to paramedics or emergency medical technicians for treatment of victims in connection with an act of terrorism does not apply if the paramedic or emergency medical technician acted wantonly. This provision will have no impact on local units because existing law provides that immunity does not apply for comparable acts that result from gross negligence or willful or intentional misconduct.

Penalty Provision. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision.* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: CTASC; DOC.

Local Agencies Affected: Paramedics and emergency medical technicians employed by local governments; Trial courts; Local law enforcement agencies.

Information Sources: Earl Morgan, Executive Director, CTASC; Indiana Sheriffs' Association; DOC.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.